IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2092 of 2006

FIRM - MURLIDHAR
V/S
SUNDER LAL & ANR.

Mr. BK MEHAR, for the appellant / petitioner

Date of Order : 1.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner, and perused the impugned order, whereby the learned trial Court has dismissed the petitioner's application for amendment of the written-statement.

It has been considered that the facts sought to be pleaded are not new, and pleadings/material in that regard is already there on record. That apart, I had seen the application for amendment, and find that the averments are on the face of it, not acceptable, inasmuch as, the amendment includes a plea, desired to be raised, being that the shop adjoining the suit shop has been got vacated by the plaintiff, and is lying under lock and key of the plaintiff, and it is sought to be contended that this fact came to the notice of the defendant now on 7.1.2006. To say the least, it is impossible to swallow that the defendant would not come to know of the fact of vacation of the shop adjoining the suit shop itself. Be that as it may, in my

view, the impugned order does not require any interference in my writ jurisdiction. The writ petition is, therefore, dismissed summarily. Since the amendment application is said to have been filed at the stage when the suit is for final arguments, and the impugned order shows that it is next fixed in the trial Court on 15.5.2006, the trial Court is directed to decide the matter in this month itself, as the suit is already of the year 1982.

(N P GUPTA),J.

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